The Changes In The Claims

Please change the claims as indicated by the following:

Cancel all of the present claims 1,3,4,6,7,8,9,10,11 and 12 in this case and replace them by the following new claims 13,14,15,16,17,18,19,20 and 21 based on and hopefully improved upon the claims originally in this application.

13.(new) In a method including the step of passing an electric current through an electrolyte from an inert anode to a cathode in an electro chemical cell the improvement comprising :

said electrolyte being an acidic electrolyte consisting essentially of D_2O and an acid serving as a source of hydrogen ions,

said cathode is of an electrode formed of a metal capable of taking up hydrogen ions into the physical structure of the metal, this metal being selected from the group consisting of palladium and titanium,

the temperature of the electrolyte which is between said electrodes, the acidity of the electrolyte, and the voltage and density of said current being related so that this temperature, this acidity, this voltage and density are all concurrently effective so that as said method is practiced a greater amount of heat is produced in said cell than would be produced in said cell if the D_2O in said electrolyte was replaced by the same quantity of "regular" water.

14.(new) The method set forth in claim 13 including:

the step of collecting gases given off by reactions involving the electrolyte during the practice of said method is carried out in an enclosed space above this electrolyte;

reacting the collected gases; and

returning the reaction products of the collected gases to said electrolyte.

15.(new) The method set forth in claim 14 wherein:

the collected gases are catalytically reacted above the electrolyte in said cell and are returned to said electrolyte by the action of gravity.

16.(new) The method set forth in claim 15 wherein

said acid is sulfuric acid.

17. (new) The method claimed in claim 16 wherein;

said electrolyte contains 15% by volume sulfuric acid having a specific gravity of 1.84.

18.(new) The method claimed in claim 13 wherein:

said metal is palladium.

19. (new) The method claims in claim 13 wherein:

said metal is titanium.

19.(new) The method set forth in claim 13 wherein

the step of collecting gases given off by reactions involving the electrolyte during the practice of said method is carried out in an enclosed space above this electrolyte;

reacting the collected gases; and

returning the reaction products of the collected gases to said electrolyte.

the collected gases are catalytically reacted above the electrolyte in said cell and are returned to said electrolyte by the action of gravity.

said acid is sulfuric acid.

said electrolyte contains 15% by volume sulfuric acid having a specific gravity of 1.84.

20. (new) A method of operating an electrochemical cell including an anode during the operation of the cell and a cathode electrically connected through an electrolyte in which:

said electrolyte consists essentially of a mixture of D_2O and an effective amount of an acid to serve as a source of hydrogen ions,

said cathode being formed of a metal which is capable of taking up these hydrogen ions into the physical structure of the metal during the operation of the cell which is selected from the group consisting of palladium and titanium,

the temperature and acidity of the electrolyte between the electrodes and the density and current between the electrodes being related so that said electrolyte is both heated and caused to become radioactive during the operation of said cell.

Discussion Of The New Claims 13-20, Inclusive

If the Examiner has any suggestions as to improving the form or content of the claims presented he is respectfully requested to contact the attorney of record in this case. There is no "magic" associated with the language now used in the new claims presented in the preceding. They are believed to more clearly define the coverage for which patent protection is sought than any of the prior claims in this or any prior related case.

The examiner will note that the two primary claims now in the application - claims 13 and 20 - are closely related to the original claims 1 and 11 but differ from these original claims primarily - but not entirely - as to the manners in which their content is stated. This is a consequence of a party assisting the Applicant desiring to use manners of expression in accordance with his prior experience. Probably it should be noted that none of them uses the expression "cold fusion".

It is noted that claim 13 specifies that the method claimed in it produces heat. It does not say anything relative to a nuclear reaction or anything of the like. It is also noted the new claim 20 uses language corresponding to that in the first few lines of page 11 of the specification to make it clear that the claim 20 relates to the nuclear field.

The new claims 14-19, inclusive, are dependent on the new claim 13 and, in addition, all set forth with different degrees of specificity the concept of collecting and gathering products of the cell reactions and reacting them and then returning the resulting reaction product to within the cell proper. As pointed out in the specification as filed the subject matters of these later claims 14-19 not incorporated by reference from claim 13 pertain to a safety feature. Thus, they do

not have the breath of the claims 13 and 20.

Since the new claims submitted herewith are very closely related to the claims considered in the prior action it is assumed that here and in all parts of this document they should be discussed more or less as if they were in fact the claims previously considered. It is believed that this procedure will facilitate further consideration of this application.

Since This Application Has Not Been Examined In Accordance With 35 USC 131: All Of The Grounds For Refusing The Allowance of the Application Are Traversed And Must Be Withdrawn

It is believed that the rejections of claims in this application and that all of the objections to the claims and specification set forth in the preceding Office action were improperly made because the basis of a document or memorandum which the Office has in effect substituted for the implied requirement of 35 USC 131 that patent applications be fairly and reasonably examined. Accordingly all rejections and objections set forth in this preceding action are traversed and reconsideration of them is requested.

There should be no question but that the patent applications should be fairly and reasonably examined. If they are not the entire patent "system" is open to corruption and all sorts of questionable influences which can be expected to thwart the Constitutional intent of promoting "...progress of science and useful arts (Article 1, Section 8 of the US Constitution.)" if this is to be accomplished each application must be judged on its on merits and not on the basis of some preordained, possibly erroneous belief system and not on the basis of some

effectively hidden discriminator policy. It will be assumed that the Examiner agrees with the statements in this paragraph unless he indicates to the contrary.

The Office Policy Against Issuing Patents On Cold Fusion

The traversal set forth in the preceding because of the requirement of 35 USC 131 and is based on several grounds which can be stated in different ways. The principal of these grounds is based upon the apparent existence of an unpublicized Office policy of refusing all applications, and especially applications pertaining to "cold fusion which might cause embarrassment or similar undesirable views relative to the Office and its operation.

This policy is believed to be set forth in a document or memorandum or the like which the Applicant has not yet seen, known by the acronym "SAW" or "SAWL" of the actual title of the of the document which is believed to be "Sensitive Application Warning" or "Sensitive Application Warning List.." The Examiner is requested in the interest of fairness to make this document or the like of record in this case and to furnish the Applicant a copy of it. As anyone will realize it is impossible to effectively argue a rejection based on something held is secrecy.

It is highly possible that these designations for this document evidencing the noted policy may be slightly in error. It is also believed that document was prepared by one or more supervisory examiners and that it has never been inventoried as a "official" Office document or record. It is further believed that the document and its contents are in fact public property because of the fact that it was created by Office personal using at least some Office time and the fact that it was discussed by at least some Office personnel including supervisory personnel who were or are concerned

with the examination applications in the fields noted in the SAW document.

The Office Has Consistently Issued Patents Which Have Caused It To be Ridiculed or Embarrassed

The purpose of the noted SAW document was apparently to prevent the Office from being embarrassed or ridiculed by the issuance of patents on the subject matters listed in it. One of these subject matters is believed to be cold fusion. It is well known that the Office has not been concerned with the possibility of such a consequence. It has issued many patents on "Ruble Goldberg" type contrivances as well as in fields which when patented had the potential of and often did emerge as respected "science".

It can be argued that the Office now has a valid reason in avoiding the issuance of patents on such subjects because ot the sensitivity of at least some individuals within the Office and their desire too avoid criticism because of the issuance of patents on so-called "junk" science. Any such argument is nonsense. By not taking any action against the issuance of questionable patents for well over a century Congress has impliedly approved their issuance.

The concern of the Office about the issuance of patents which might lead to embarrassment was and is quite real. Criticism of the Office is considered to be detrimental to its receiving favorable treatment by Congress. Because of its controversial character any patent related to cold fusion or any similar topic could be expected to lead to a charge that the Office was not doing its job by furthering junk science and there is a possibility that any such charge might detrimentally affect the relationship between the Office and Congress Such expectations are well founded.

In this connection reference is made to the book by anti cold fusion advocate Robert L. Park entitled "The Road From Foolishness to Fraud" published in 2000 by Oxford University Press. Although it is not entirely clear from the record in the subsequently discussed Valone arbitration it seems almost uncontroversial that Mr. Park and a former and James Randi, a stage magician, played some role in connection with a Dr. Valone being fired by the Office from his position as an examiner because of his actions demonstrating his belief in cold fusion type phenomena.

The SAW or similarly designated edict relative to the Office not issuing patents on subject matter coming within the broad, somewhat indefinite, broad generic designation "cold fusion" clearly has its antecedents in a number of items probably including the activities of these men, Unfortunately the Office has had and apparently still has a serious problem in how to implement this anti cold fusion policy. Congress definitely has not enacted any sort of a provision in the US Patent Law shielding the PTO against ridicule or the like.

The Examiner is requested to take judicial notice of the fact that the Office has constantly issued dubious patents of types which could be expected and which have on occasion caused it to be ridiculed and lead to it being charged with not furthering either science or any useful art. Is the possibility of ridicule a valid statutory reason for changing well established standards for patentability?

The Apparent Departure From A Normal Examination Of This Application Appears To Be A Part Of An Office Policy Of Doing Everything Reasonably Possible To Block Or At Least Discourage The Issuance Of Any Species of Cold Fusion Patent

The repeated issuance of "dubious" patents for well in excess of a century is

secondary evidence that there is and has been nothing in the Patent Law granting the Office authority to refuse any application which might cause it embarrassment. or the like. And unfortunately the Office apparently has found one effective way to avoid this possibility. It attempts to do this by routinely refusing any application seeking protection on subject matter set forth in the SAW list.

In the past this has been and currently this is apparently being accomplished by refusing to allow any such application on every conceivable ground it can find or invent and by permitting Examiners to depart from normal procedures and to selectively ignore current scientific advances and various references to any extent reasonably required to support any such refusal. The costs and frustrations in combatting these barriers created by the Office are really separate barriers to the issuance of patents on unapproved subjects.

This is a rather accurate indication of what has happened in this and presumably other applications. The validity of this statement is evidenced by the public disclosure of the withdrawal of patents issued on topics somewhat related to or associated with the generic topic of cold fusion reported in the press

In this case the Office seems to have acted on this "anti" policy by having applications pertaining to cold fusion or the like examined by examiners who can be expected to act on these cases with the zeal and impartiality of a recent born again Christian recent convert zealot evaluating the validity of the religious beliefs of a distinctly different faith such as an agnostic, a Unitarian. an extremely orthodox jew or the like who realized that his future was contingent upon his effectively negating the integrity of the beliefs of such different faiths. Does this constitute fair, impartial examination as required by 35 USC 131?

One can conclude from the outstanding Office action that in fact the application was examined more or less as indicated with or at the assistance of the Office. This assistance can be implied from the fact that a reasonably experienced examiner in the Office is on a production quota system which frequently gets such an examiner in an undesirable "position" unless he or she "acts on" a number of applications which is believed to be at least about 10 or more applications per week. With this sort of a system the Examiner acting on ths Application must have received some sort of a special dispensation to take the time to produce a 50 page office action evidencing extensive but very, very selective and extensive legal research and a significant variety of objections and rejections in far greater time than an examiner is normally expected to devote to acting on an application.

There is no point in discussing how the various objections and rejections in the outstanding action this case in one way or another suggest that it was prepared to carry out the apparent Office of policy of "throwing the book" at an application on a broad, generic subject such a cold fusion which might cause the Office to be embarrassed in one manner or another. It is believed that the insincerity of the action taken on most if not all of these matters will be apparent from subsequent parts of this document.

This even evidenced from "selective" manner in which the "matters" used against the Applicant in sections 2 to 12 of the outstanding Office action were apparently chosen.. In the cumulative all of these items are evidence that the present application has not been examined in accordance with 35 USC 131 and that therefor all of the objections and rejections of record must be withdrawn.and traveresed.

Can This Application Be Fairly Examined ?

The preceding leads to a further question - even if these items are withdrawn can this application be fairly examined by the Office? Can the Examiner handling this application or any other examiner acting under the direct or indirect scrutiny or supervision of any one associated in any way with the failure of the Office to properly examine this or any other application be expected to fairly consider any application claiming subject matter on the SAW list or or any other subject matter which might cause the Office to be criticized?? The answer to this is a resounding "no".

Unfortunately these questions involve a preliminary type issue relative to all of the grounds for refusing the claims and objecting to claims and the specification in the current Office action. The Examiner (or a higher authority in the Office) needs to and is requested to clarify a conflict of interest type situation so as to avoid any future question of impropriety in connection with the examination of this application. The noted question relates to whether or not it is possible for any examiner to exercise disinterested judgment in acting on the claims presented in this case in view of the conduct by the management of the Office.

The facts relative to this application are such as to cause some individuals to question if this or any other application in the emerging field of using fusion to produce energy in any form can expect to receive fair, impartial consideration by the Office. Under the circumstances are all of the objections and rejections of record just bureaucratic barriers raised so as to conceal their actual purpose ? Have they been made by the Examiner using disinterested judgment ? Or have they been made under pressure from the Office management and/or pressure from one or more other sources.

To what extent are they what one expects from the use of disinterested,

unbiased judgment by a fully qualified examiner who has proven experience in the emerging field of the invention and who is able to evaluate a possibly significant development with an open mind? Is this the case if such an examiner is fearful about his or her job?

The Probable Effect Of The Valone Decision In Influencing The Examiner's Examination Of This Application

A number of factors at least suggest that these questions be asked even though there is at least a presumption of dubious validity that the Office has and will continue to examine this application in an exemplary manner. One of these factors is the decision of the arbitrator discussed in the article "The U.S. Patent Office v. Thomas Valone: A Lesson On How Not To Be A Missionary In A Bureaucracy" starting on page 31 of the 2005 issue 64 of the magazine Infinite Energy. In case the Examiner is not familiar with this article it is noted that it was based upon a long decision in an arbitration proceeding in which a Dr. Valone sought to and succeeded in getting his job as an examiner back after being fired by the Office.

The precise issues in this proceeding do not appear to be fully resolved or delineated in it. The Office appears to have taken the position that he was fired as an examiner for what can be and which were held to be comparatively minor transgressions. As opposed to this Dr. Valone believed that he was fired because of his advocacy of "cold fusion".

As a result of the cold fusion issue involved in this Valone decision the decision by the arbitrator is clearly significant in that it at least raises the question as to whether or not the any examiner in the Office can be or can be expected to be

impartial in connection with any application related to cold fusion type of subject matter.

After considering several days worth of testimony by the Commissioner of Patents and much other evidence the arbitrator in this Valone case both reinstated Dr. Valone as an examiner and in addition warned him that because of his views on cold fusion that:

> *"The PTO is out to get him for his advocacy of cold fusion and will clobber him with a* (possibly "as" in the original) *Removal Proposal which the next time around, ...it will be able to make stick. Screw up once more in publicly evidencing his advocacy of cold fusion which in its appearance implicates the DoC, PTO or any other Federal agency, the grievant should understand that his employment as a patent examiner is at an end."*

The Possible Consequences Of Any Examiner Taking Any Action Favoring Cold Fusion

This quotation conveys a chilling message for both the Examiner handling the present application and probably his superior and any other examiner who might be prone to take any action favoring the recognition of any aspect of any type of "cold fusion" or a species of this generic topic such as is set forth in the claims of this application. And this decision in the Valone arbitration was at least in part based on the testimony of the head of the Patent and Trademark Office. It should not be ignored.

This message can be quite important to a person seeking a career an examiner

in the Office. If any such individual takes any action such as the allowance of the claims as are presented in this case he or she apparently will be at least jeopardizing his or her future in the patent field. What information relative to this Valone decision was known to the Examiner handling this application when he acted on this case? One can easily take the view that he somehow got the message to be "rough" on any cold fusion case and acted on this case so as to carry out the desires of his superiors.

The implication of the Valone decision is or at least should be draconian to any examiner who might do anything which might be construed as doing anything favoring any emerging technology even vaguely related to what is currently called "cold fusion", In the decision it was held that the pro fusion advocate - Dr. Valone - was even denied "due process" by the Office in his effort to regain his position as an examiner.

The decision in the Valone arbitration reinstated Dr. Valone as an examiner. Can another examiner afford to risk the loss of his employment and even a denial of basic rights if he seeks to regain this employment if he or she acts favorably in considering an emerging technology? Will anyone really know if the Examiner currently handling this case will probably never know if his judgment was influenced by this possibility?

Because of the obvious "no" answer to the preceding question the Office is requested to withdraw the current office action in this case and to either allow the application or to have it acted upon by an qualified, disinterested individual who would have nothing to fear if he or she views the content of the application favorably in any regard. Discrimination between selected applicants seeking patent protection on possibly embarrassing topics by the Office must end. This request is intended as

another traversal of all of the grounds for refusing the allowance of the present application stated in the preceding Office action in violation of 35 USC 131.

The Meaning Of The Generic Expression Or Term "Cold Fusion"

It is considered that a major problem in connection with this and other related applications concerns the meaning of the generic expression "cold fusion". Although the outstanding Office action extensively uses this designation nowhere in it is there any clear cut definition of what is meant by it.

It is submitted that as a result of this the series of objections and rejections in this case is in error because the individual "items" in this series of refusals do not relate to the precise subject matter of the disclosed and claimed invention. As a consequence of this each and every objection and rejection directly or indirectly based upon the broad, generic expression "cold fusion" or any substantially related designation which is not specifically related to claims in this case is traversed. Reconsideration of all such objections or rejections is requested.

It is noted that nothing indicating the existence of any generally accepted definition of "cold fusion" or clearly indicating that it is a recognized generic term appears to have been cited or considered by the Examiner in acting upon this case. One can speculate that this has resulted in his being erroneously confused as to the meaning or meanings of this expression. This also makes it clear that rejections and objections in the outstanding Office action do not precisely relate to what is claimed in the present case .

Because of the comparatively recent development of the term "cold fusion" probably the best indication of its probably continuously varying meaning is found

the the internet "Wikipedia". Since it was probably not considered by the Examiner a recently obtained printout of the discussion on this in the Wikipedia is being submitted as an attachment to this document marked as Exhibit 1.

While questions about reliability can be raised relative to this Wikipedia reference it appears that the Office consistently relies upon it. In connection with this point reference is made to Aharonian's Patent News @ns1.patenting -art.com (dated Tue. Aug. 1, 2006). In this electronic "news" he indicates that many patents have cited this publication as "prior art" and that Art Units of the Office "...are including the Wikipedia in their "search templates"". It is clear that the references cited and often discussed in this internet "publication" are at least good sources of information as to various publications which the Examiner should have but probably has not considered.

. One can speculate that this has resulted in erroneous confusion as to the meaning or meanings of the indefinite term "cold fusion" and the relationship of much or all of the significant prior art relative to what is claimed in the present case. This confusion is considered to be the result of "cold fusion" being defined as in the Wikipedia as follows:

> "By definition, Cold Fusion is a nuclear fusion reaction that takes place at or near room temperature and normal pressure instead of the millions of degrees required from plasma fusion reactions."

This definition can and should be criticized on a variety grounds. One of these grounds is that it is primarily deficient because it fails to say or even imply anything relative to cold fusion type reactions being carried out in an electrolytic cell

or, more significantly, the nature of the reactants employed in any type of cold fusion or other matters related to what happens when various reactants are used in an electrolytic cell. All of such things help establish that "cold fusion" is a broad, indefinite type of generic expression covering a great many different specific concepts.

Acidic and Basic Reactants Are So Different That They Cannot Fairly Be Considered Equivalents

From references cited in the Wikipedia and others it is considered to be a matter of common knowledge that F&P disclosed the use of an electrolyte in an electrolytic cell which was about as alkaline or basic as one can obtain. Those investigating their work did the same. If the Examiner is not willing to concede the correctness of these statements the Applicant will supply references establishing their accuracy. As opposed to as indicted in the claims presented in this application the applicant's invention requires the use of an acidic electrolyte instead of an alkaline electrolyte. Some of the claims specifically require the use of a significant amount of very acidic sulfuric acid.

This difference is critical and unobvious. When considered in connection with the quoted definition it confirms the generic, non specific, indefinite nature of "cold fusion" and the existence of distinctly different species under it. Probably much of the semantic problem resulting from the broad, generic nature of the expression "cold fusion" should be avoided by referring to the Applicant's invention as "acidic electrolytic cold fusion" or simply "acidic cold fusion" and by referring to the work of F&P and those who have investigated it as "alkaline cold fusion".

The significance of the two different species discussed in the preceding paragraph noted is easily illustrated. Every housewife knows that something normally unexpected or undesired occurs when an aqueous acid such as vinegar is substituted for an alkaline composition such as baking powder or baking soda in making something such as bread. This is a matter of basic chemistry. No one in the worked over and repeatedly investigated generic field of cold fusion would logically expect to achieve an operative process bv the replacement of an alkali as used by F&P with a mineral acid such as sulfuric acid, particularly when there is no clear, effective disclosure of such a substitution or of the desirability of making such a substitution.in the precise manner claimed.

Under the circumstances is the Examiner's blithe use of "cold fusion" in both objecting and rejecting in the preceding Office action reasonably justified? The answer is clearly "no" because none of the references, whether taken alone of in combination, fairly shows or suggests the precise procedure including the reactants employed and claimed by the Applicant. Hence, all rejections and objections based on any use of or reference to "cold fusion" alone except when it is used n a obviously broad,generic manner are respectfully traversed. Without these the precise meaning of :cold fusion intended being clearly stated the Applicant cannot be expected to effectively respond to an Office action in which they are used such at the current Office action.

In view of this the Applicant once again traverses all objections and rejections of record in which the expression "cold fusion" is used.

The Failure Of The Examiner To Disclose And Consider Material References Has

Resulted In The Denial of "Due Process"

This failure of the applied references to anticipate the specific content of the claims presented is particularly onerous in view of the fact that the Examiner clearly did not cite and apparently refused to mention many references which he should have considered instead of picking and choosing and then citing and using only references and decisions which supported the "official" anti cold fusion policy of the Office. He even failed to even clearly acknowledge and discuss the fact that there has been extensive controversy in the past relative to the F&P species of alkaline cold fusion. The fact that there has been such controversy and that much has been written with respect to it is clearly well known common knowledge as shown by the enclosed Wikipedia article and many other materials

Doesn't basic fairness require a recognition of the fact that any controversy has at least two sides? Isn't the examination of an application under 35 USC 131 supposed to involve a fair consideration of all aspects of a controversy? Since the proceedings to obtain a patent are not supposed to be adversarial in nature like traditional litigation, isn't there an existing implied obligation requiring an implied obligation to inform an Applicant of all reasons known to the Office indicating that an application may meets the various statutory criteria for a patent to issue? Doesn't this obligation correspond to the duty to disclose in response to discovery in conventional litigation?

This can be stated in another manner. Isn't it improper for an Examiner to withhold from an applicant material information which is inconsistent with the refusal of an application. Any such withholding of information learly creates an inequitable situtation in which the parties - the Applicant and the Office- are held to

entirely diferent standards of conduct which, in a case such as the present, favor the Office. One party should chould not be favored over another in the usual negociations relative to the issuance of a patent.

This is particularly the case to avoid charges of improper conduct as are discussed in this document. Since an applicant or anyone reasonably associated with the applicants required by 37 CFR 1.56 to be a Devil's advocate by informing the Office of all known reasons as to why a patent should not issue on an application it is submitted that if patents are to be fairly examined in a non-adversarial manner there must be a corresponding duty for an examiner to give to an applicant corresponding information. Doesn't a fair consideration of all factors relevant to patentability as is believed to be required by 35 USC 131 preclude an examiner from ignoring, hiding or concealing matters which may be unknown to the Applicant but known to the Office which might prove helpful in preparing a response such as this.

It can hardly be questioned that the Examiner responsible for the outstanding Office action knew of and presumably still knows of many items which the Applicant should know so as to be able to respond to the current Action as effectively as possible. Isn't the object of the usual proceedings to obtain to a patent to fairly consider the content of an application? Can this be accomplished when significant information is withheld from an Applicant?

The applicant considers that it can't . Because 35 USC 131 appears to require that an application by fairly examined the Applicant believes that he has been denied "due process" . As shown by the decision in the Valone arbitration previously discussed this type of conduct by the Office is not unknown. Because of

this denial it is considered that the entire content of the 50 pages of argumentative rejections and objections in the preceding Office action should be withdrawn as being improperly set forth in violation of 35 USC 13l.

This action is requested. This request is intended to be a transversal of all of such matters. Undoubtedly there are matters known to the Examiner but not known the the application would have been of significant assistance in the preparation of this response, It s is considered that it would have been impossible for the Examiner to have prepared the outstanding Office action without locating at least some information favorable to this applicant in examining this application on a controversial topic.

The Objections And Rejections of Sections 2, 3 5 and 6 Of The Current Office Actions Are Traversed

The objections to and the rejections of claims in sections 2 and 3 are traversed because under the current standards of the Office as applied in other cases not relating to the generic topic "cold Fusion" the disclosure in the specification is of a conventional, adequate type and the claims presented in it are adequately supported by it. It is considered that both of these traversed items are the result of a failure to examine this application as required by 35 USC 131 as previously discussed. Further isn't it obvious that these refusals to pass the case to issue are a part of a type of "treatment" called for in connection with the Office Policy against granting patents on anything within the generic designation "cold fusion".

The Applicant is handicapped in responding to the noted grounds for

refusing this application since he is not aware of what, if any references relative to the species of the cold fusion claimed in this case were considered by the Examiner. From the fact that nothing particularly favorable to the generic concept of cold fusion was cited or applied in the prior Office action it is reasonably clear that he must have seen something commenting favorably relative to the species of acidic cold fusion. Without this knowledge it is not effective to respond to the refusals on the basis of 35 USC 112 without extensively encumbering the record in this case. When such information is concealed how is it possible to fairly examine this application pursuant to 35 USC 131?

It appears that the basis of the refusals and the related comments in the noted Office action is that the disclosure of the application is not "enabling". This view is supported by a series of conclusionary statements such as "There is no reputable evidence of record to support ..." the content of the claims and so on. The Examiner has indicated that he considers that the content of the claims and specification are based "...on the "cold fusion" concept of F&P and then proceeds to ignore the fact that the Applicant is seeking protection on a particular acidic species within the genius "cold fusion.

To make this objectionable he seeks to support his position by a series of assumptions as to cold fusion which at best are mere half truths. For example the allegation that the "...Applicant's invention is just a variation of of the cold fusion concept set forth by F and P." ignores the fact that the applicant has changed the fundamental character of the work done by F&P by switching from the use of a very basic electrolyte to an entirely different acidic type of electrolyte. The Applicants species of cold fusion "works"; the F&P species of cold fusion is highly

controversial and is frequently considered to be inoperative in character. If anything this indicates the Inventive character of claimed invention.

The fact that the disclosure in this is adequate to enable anyone with reasonable skill to practice the invention without any significant experimentation is believed to be indicated by the disclosures of various investigators cited in the enclosed Wikipedia printout. Since the broad aspects of the Applicant's invention as set forth in the broadest claims presented herewith - claims 13 and 20 - set for a physical apparatus - an electrochemical cell - of a type which has been well known for many, many years and deviate from what F&P did by substituting an acidic electrolyte for a distinctly different basic electrolyte in otherwise using the cell in an obvious manner. Reconsideration is requested because no reasonably qualified electrochemist who has had any experience in using an electrochemical cell as indicated would have little difficulty in practicing the claimed acidic species of the genius cold fusion.

In this connection it is noted that patent specifications are not expected to be "how to do it" manuals. Because the Examiner is a "primary examiner" handling this electrochemical type application it is considered that it would have been virtually impossible for him to avoid knowing of cases establishing this. Under the circumstances it is considered to be a waste of time for the Applicant to look them up and cite them in this response. This is particularly the case since this matter of the "enabling" character of the specification is just another aspect of the vendetta against the issuance of applications such as this discussed in the preceding. It is also to be related to the issue that this application has not been reasonably examined impartially as required by 35 USC 131.

The specification in this case does not include all conceivable details of the present invention because those details of how to practice the invention which are omitted are within the routine skills of electrochemists. If the corresponding skills required to practice the alkaline cold fusion of F&P were not of a routine nature within the ability of such individuals how would they have been able to exhaustively investigate the F&P species of cold fusion.

To establish that there has been such exhaustive investigation reference is made to the enclosed Wikipedia discussion. Reference is also made to the fact that the Examiner has apparently deliberately ignored the work as set forth in the documents supporting the two Ph.D. and six masters degrees which have been issued in connection with research on the process set forth in claims 13 and 20, This work is believed to be known to the Examiner. Has it been ignored as a part of the campaign by the Office against anything falling within the scope of the generic topic of cold fusion.

If, by any chance the Examiner is not aware of the dissertations and theses setting forth such work it is noted that they are believed to be available to him on interlibrary loan. They cannot be forwarded to the Office with this response since they are in bound libraryvolumes . The attached Exhibit A lists them and summarizes the their contents. In the cumulative they show that details of how to practice the claimed invention to be within routine skill and that except in one instance those doing the work described in the exhibit clearly extablished that the claimed process "works".. The fact that they were not cited by the Office is considered to be a part of the Office's failure to adequately examine the applications for such patents as required by 35 USC 131. Is this fair? Is it proper to wear down an